

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Advisory Action of February 20, 2008 (Advisory Action), and are concurrently filed with a Request for Continued Examination. The Examiner is expressly authorized to charge any fees to Deposit Account No. 50-0951.

It was asserted on page 2 of the Advisory Action that the affidavit filed under 37 CFR 1.131 does not show a good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e) (see MPEP 715.09).

Please note that since the reference Hicks, which the present invention predates, was cited in the final Office Action dated December 12, 2007 for the first time, Applicants did not have presented the affidavit under 37 CFR 1.131 or other evidence earlier because it was not necessary to file an affidavit under 37 CFR 1.131 when there was no cited reference with an effective date earlier than the filing date of the instant application.

It is also noted that Affidavits and declarations submitted under 37 CFR 1.131 and other evidence traversing rejections are considered timely if submitted after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) because an applicant files the affidavit or other evidence with a request for continued examination (RCE) (see MPEP 715.09). Since an RCE has been concurrently filed with this response, consideration of the affidavit under 37 CFR 1.131, and withdrawal of all rejections in connection with Hicks, are respectfully requested.

### **CONCLUSION**

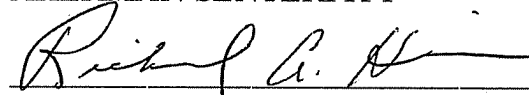
Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the

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undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

AKERMAN SENTERFITT



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